FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

APPEAL FROM ORDER NO. 1131 OF 1998.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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M/s. Mane for the appellant.

CORAM: V.C.DAGA,J.
DATED: 15-9-2004.

P.C.:

. This appeal is directed against the judgment and order dated 29.4.1995 passed in Misc.Application No. 130/1992 by the Civil Judge, SD, Pune, whereby application for restoration of the suit came to be dismissed. Nobody is present on behalf of the respondent inspite of service of notice.

2. The reason sought to be given for non-appearance before the trial Court was that advocate Shri Bharat Shinde, appearing for the appellant in the trial Court could not attend the Court as he was contesting election of Pune Municipal Corporation. Suit came to be dismissed for default on 13.2.1992 for his non-appearance. Learned Counsel for the

appellant contended that the appellant had made out sufficient cause under O. 9 R.9 of the C.P.C. for setting aside dismissal of the suit.

3. I have examined the submissions made and the reasons given in the impugned judgment. The view taken by this Court from time to time is that for the fault of the Advocate, party should not suffer. There is no contest on behalf of the respondent inspite service of notice.

4. In this view of the matter, impugned order is set aside. Misc.Application No. 130 of 1992 for restoration of the suit under O.9 R.9 of C.P.C. is allowed for the reasons stated in the application, subject to payment of cost in the sum of Rs.2500/- (two thousand five hundred only). Amount of costs to be deposited with the trial Court for being paid to the respondent within 2 weeks from today, failing which appeal shall be deemed to have been dismissed without reference to this Court with costs.